



# Dispute Resolution Services

Residential Tenancy Branch  
Office of Housing and Construction Standards  
Ministry of Housing and Social Development

## **Decision**

**Dispute Codes:** CNR

### **Introduction**

This hearing dealt with the tenant's application for cancellation of the 10 day notice to end tenancy for unpaid rent. Both parties including the landlord's witness and the tenant's advocate participated in the hearing and gave affirmed testimony.

### **Issue to be Decided**

- Whether the tenant is entitled to cancellation of the 10 day notice

### **Background and Evidence**

The parties previously appeared before a dispute resolution officer in a hearing held on December 2, 2008, with regard to occupancy of the same unit which is the subject of this dispute. Arising from that hearing a decision was issued on December 10, 2008. In his decision the dispute resolution officer found, in part, that "the landlord has entered into a binding tenancy agreement [with the tenant] effective September 1, 2008 for the monthly rent of \$589.00 including hydro." Further, in his decision the dispute resolution officer ordered, in part, as follows:

.....that the landlord "immediately grant this tenant exclusive possession and occupation of the rental unit and comply with all the obligations required under the tenancy agreement and the *Act*. I also find that the landlord must immediately complete a new shelter information form for the tenant's disability funds to allow the payment of rent. I find that the landlord is unable to end this tenancy due to non-payment of rent until the landlord complies. The current non-

payment of rent is directly due to the landlord's actions by declining the shelter information previously provided.

As evidence for this present hearing, the tenant submitted a copy of the Shelter Information form which was completed following the previous decision. The Shelter Information form is dated December 18, 2008 and is signed by the landlord's agent.

Subsequently, the parties agreed that the tenant's rent has been paid in full for January and February 2009.

However, arising out of events related to the dispute that was previously before the dispute resolution officer, rent for October, November and December 2008 was not evidently paid. This led to the landlord's issuance of a 10 day notice to end tenancy for unpaid rent dated December 31, 2008. A copy of this notice was entered into evidence by the tenant. The notice shows January 11, 2009 as the date by when the tenant must vacate the unit. In response to the notice, the tenant filed an application for dispute resolution seeking cancellation of the notice.

### **Analysis**

The non-payment of rent for October, November and December 2008 arises out of events which are related to the previous dispute, and which are addressed in the dispute resolution officer's decision dated December 10, 2008. In part, rent was not paid as a result of the landlord's actions, as noted above in the earlier decision. As also previously noted, subsequent to the decision of December 10, 2008, the Shelter Information form was completed and rent for January and February has been paid.

Moving forward in relation to resolving the issue of unpaid rent for the three months in question, the tenant's advocate undertakes to consult with Ministry personnel. The goal is to apprise the Ministry of the full circumstances surrounding the unpaid rent and to request that the Ministry forward payment of outstanding rent directly to the landlord.

In the meantime, the landlord's agent has agreed to set aside the 10 day notice to end tenancy for unpaid rent, with the result that the tenancy continues in full force and effect.

**Conclusion**

Pursuant to all of the above information, I hereby set aside the 10 day notice to end tenancy. The tenancy continues in full force and effect.

DATE: February 4, 2009

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Dispute Resolution Officer